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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 THE JAZZ OF TACOMA FEEL THE BEAT,

10 Plaintiff,

11 v.

12 BONE THUGZ 'N' HARMONY, *et al.*,

13 Defendants.

Case No. C08-5264FDB


ORDER DENYING MOTION FOR
ENTRY OF DEFAULT JUDGMENT

14 Plaintiff moves for a default judgment in the amount of \$25,000.00 plus \$10,000.00 in
15 attorneys' fees and costs for a total judgment of \$35,000.00. Plaintiff may be entitled to entry of
16 default if Plaintiff first demonstrates proper service of the defendants and that the defendants, despite
17 proper service, have failed to appear or otherwise defend. Here, Plaintiff merely asserts that he faxed
18 a copy of the complaint to Defendants' counsel, Joseph Porter III, but this does not constitute proper
19 service. The Court, therefore, declines to enter a default in this case at this time and denies the
20 motion for entry of default judgment.

21 Moreover, the Court is concerned about the amount in controversy in this case, because the
22 Complaint asserts compensatory damages of \$280,000.00, while the default judgment motion seeks a
23 judgment for breach of contract for \$25,000.00. In any event, Plaintiff will have to submit sufficient
24 proof of damages should there be a subsequent motion for default and default judgment under Fed.
25 R. Civ. P. 55.

1 ACCORDINGLY, IT IS ORDERED: Plaintiff's Motion for Entry of A Default Judgment
2 [Dkt. # 6] is DENIED.

3 DATED this 30th day of September 2008.

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6 FRANKLIN D. BURGESS
7 UNITED STATES DISTRICT JUDGE
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